

Message Text

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INR-10 NSAE-00 NSC-10 PA-03 RSC-01 PRS-01 SS-15

USIA-15 IO-13 SAJ-01 AID-20 CEQ-02 COA-02 COME-00

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TO AMEMBASSY BONN PRIORITY
SECSTATE WASHDC PRIORITY 2153

C O N F I D E N T I A L SECTION 1 OF 2 BERLIN 1297

E.O. 11652: GDS
TAGS: PGOV, WB, GE, GW
SUBJECT: SENAT-GDR NEGOTIATIONS: WATER CONSERVATION

REF:
A. STATE 145037
B. BERLIN 1202
C. BERLIN A-127
D. BERLIN 1246
E. BERLIN 1167, JUNE 28, 1973

1. SUMMARY: WHILE DEFINITE ANSWERS TO ALL OF DEPARTMENT
QUERIES (REF A) CANNOT BE GIVEN AT THIS POINT, WE ARE
INCLINED TO BELIEVE THAT POLITICAL CONSIDERATIONS ORIGI-
NATING IN BONN AS MUCH AS BERLIN ENVIRONMENTAL CONSIDER-
ATIONS ARE AT ROOT OF SENAT'S EXPRESSED DESIRE TO MAKE
FORTHCOMING RESPONSE TO GDR PROPOSAL FOR WATER CONSERVATION
TALKS. SENAT HAS ALSO SHOWN INGENUITY IN ATTEMPTING TO RELATE LONG-
DESIRED TELTOW CANAL NAVIGATION PROJECT TO "WATER CONSERVATION."
IN THESE CIRCUMSTANCES WE CONTINUE TO FAVOR ISSUANCE OF
AUTHORIZING BK/L THAT WOULD SEEK TO MINIMIZE DANGERS
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THAT SENAT WILL GET INTO AREAS BETTER LEFT TO FRG.
SUCH A BK/L COULD BE APPLIED TO SENAT-GDR NEGOTIATIONS
EITHER IN "GREY" AREA OR UNDER QA UMBRELLA, BUT LATTER IS
PROBABLY SLIGHTLY PREFERABLE ON ITS OWN MERITS AND IT IS

NOW CLEAR THIS APPROACH IS FAVORED BY SENAT AND FRG, WHICH ALSO BELIEVE GDR WILL CONSENT. END SUMMARY.

2. WHILE WE HAVE SHARED DEPARTMENT'S SKEPTICISM THAT ADDITIONAL SENAT-GDR AGREEMENTS COULD BE BROUGHT UNDER Q, WE HAVE NEVERTHELESS SOUGHT TO DEVELOP FRAMEWORK FOR DEALING WITH THIS EVENTUALITY BECAUSE, AS NOTED REF B, SENAT AND FRG STRONGLY FAVOR THIS COURSE AND SENAT BELIEVES THAT BAHR HAS GAINED KOHL'S CONSENT TO SUCH AN ARRANGEMENT FOR THIS AS WELL AS FUTURE SENAT-GDR NEGOTIATIONS.

3. MAIN PRACTICAL ADVANTAGE THAT ALLIES WOULD GAIN IF WATER CONSERVATION OR OTHER TOPICS WERE NEGOTIATED UNDER QA WOULD BE THAT ARRANGEMENTS NEGOTIATED BETWEEN "COMPETENT GERMAN AUTHORITIES" FOR IMPROVEMENT OF COMMUNICATIONS COULD MORE EASILY BE DESCRIBED AS LESS THAN FULL INTERNATIONAL AGREEMENTS BETWEEN SOVEREIGN STATES, SINCE THEY WOULD BE WRAPPED INTO AND SUBSIDIARY TO FOUR POWER AGREEMENT. THIS WOULD HELP US IN EFFORT TO ENSURE THAT GDR DID NOT BUILD UP SUBSTANTIAL CORPUS OF AGREEMENTS WITH SENAT THAT WOULD LEND INTERNATIONAL CREDENCE TO GDR CLAIM THAT WEST BERLIN IS SEPARATE POLITICAL ENTITY. WE SHARE DEPARTMENT'S DOUBT, HOWEVER, THAT CONSULTATION MECHANISM OF FPA COULD BE INVOKED EVEN IF LANGUAGE WERE INSERTED IN SENAT-GDR AGREEMENTS TO EFFECT THAT THEY HAD BEEN CONCLUDED PURSUANT TO QA, WHICH ENVISAGES IMPROVEMENT IN COMMUNICATIONS. AS WE READ FQP, THIS MECHANISM APPLIES ONLY TO THOSE INNER-GERMAN AGREEMENTS THAT WERE MENTIONED BY NAME IN FQP. WE ALSO FORESEE CERTAIN DIFFICULTIES IF ALL FUTURE SENAT-GDR NEGOTIATIONS ARE WRAPPED INTO QA (PARAS 7 AND 8, REF B). HOWEVER, WE HAVE SOUGHT TO DEVELOP SAFEGUARDS THROUGH MECHANISM OF GENERAL BK/L THAT WOULD SUIT APPARENT TREND OF PRESENT FRG AND SENAT WISHES.

4. AS NOTED PARA 5 REF B, WE APPROACH SUBJECT FROM VIEWPOINT THAT IT IS DESIRABLE TO HAVE FRG ASSUME AS CONFIDENTIAL

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MUCH OF NEGOTIATING BURDEN WITH GDR ON BEHALF OF WEST BERLIN AS POSSIBLE UNDER BASIC TREATY. EVEN IN OPTIMUM CIRCUMSTANCES, HOWEVER, THERE WILL BE INSTANCES IN WHICH FRG WILL NOT WISH TO NEGOTIATE A PARTICULAR SUBJECT. WE HAD ORIGINALLY THOUGHT THAT ONE WAY TO HOLD DOWN STATE-TO-STATE ASPECTS TO SUCH NEGOTIATIONS WOULD BE TO HAVE SPECIAL ARRANGEMENT FOR LOCAL AGREEMENTS. IN PRESENT SITUATION, ESSENTIALLY SAME OBJECTIVE WOULD BE ACHIEVED BY REFERENCE TO QA, WHICH RECOGNIZES NEED FOR SENAT-GDR AGREEMENTS IN CONTEXT REplete WITH ACCEPTABLE SAFEGUARDS.

5. IF GDR IS PREPARED TO GO ALONG WITH USE OF QA UMBRELLA, AS SENAT NOW APPARENTLY BELIEVES, THERE WOULD

BE NO "GREY" AREA" BETWEEN BASIC TREATY AND QA. WE WOULD SIMPLY HAVE TO STRETCH DEFINITION OF QA'S "COMMUNICATION" CONCEPT. ON OTHER HAND, IF GDR RESISTS QA UMBRELLA, EITHER AS MATTER OF PRINCIPLE OR IN SPECIFIC CASES, AND FRG IS UNWILLING OR UNABLE TO TAKE UP THAT NEGOTIATION ON BEHALF OF SENAT, "GREY" AREA" WOULD REAPPEAR. PRACTICALLY SPEAKING, ITS DEFINITION WOULD BE ANYTHING SENAT RATHER THAT FRG WAS TO NEGOTIATE FOR WEST BERLIN WITH GDR AND TO WHICH QA'S "COMMUNICATIONS" TAG WAS NOT TO BE APPLIED. WORDS TO BE USED WERE SUGGESTED IN DRAFT BK/L ORGINALLY DEVELOPED FOR "GREY AREA" AGREEMENTS (BERLIN 920), NAMELY "CERTAIN PRACTICAL ADMINISTRATIVE OR HUMANITARIAN PROBLEMS OF PURELY LOCAL CHARACTER."

6. SIMILARITY OF LANGUAGE WE HAVE PROPOSED FOR GENERAL BK/L IN EVENT IT IS DECIDED TO AUTHORIZE SENAT TO CARRY ON ADDITIONAL NEGOTIATIONS UNDER QA IS ACCOUNTED FOR BY FACT THAT REGARDLESS OF WHICH COVER IS USED FOR SENAT -GDR NEGOTIATIONS--GA OR "GREAY AREA-IT WILL BE IMPORTANT FOR FRG TO REPRESENT WEST BERLIN'S INTERESTS ON MAJOR MATTERS OF SORT THAT WOULD NORAMALLY BE NEGOTIATED BY SOVEREIGN STATES, LEST GDR'S SEPARATE-ENTITY THEORY FOR WEST BERLIN BE STRENGTHENED. IT IS DIFFICULT TO BE PRECISE ABOUT WHAT SUBJEETS MIGHT FALL INTO ONE CATEGORY OR ANOTHER. WATER CONSERVATION, IF LIMITED TO SPECIFIC PROBLEM CASES, EMERGENCY RESCUE AGREEMENT, AND CLEAN-UP OF EAST BERLIN AREAS WEST OF WALL, ALL OF WHICH HAVE ALREADY BEEN BROACHED BY SENAT OR GDR, WOULD CONFIDENTIAL

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SEEM TO BE CAPABLE OF BEING CONSTRUED AS FALLING WITHIN "GREY AREA" OR QA COMMUNICATIONS. ON OTHER HAND, GENERAL ENVIRONMENTAL PROTECTION AGREEMENT WOULD SEEM TO STRETCH CONCEPT OF AGREEMENTS OF "PURELY LOCAL CHARACTER" TO BREAKING POINT. WE ARE NOT FULLY AWARE OF SCOPE OF AGREEMENTS THAT FRG LAENDER CAN ENTER INTO WITH FOEIGH STATES. WE ARE CAUTIOUS ABOUT DRAWING PARALLELS, HOWEVER, SINCE CAPACITY OR LACK OF CAPACITY TO CARRY ON INTER-NATIONAL RALATIONS, WHICH IS ONLY QUAINAT ANACHRONISM AT MOST FOR BAVARIA, IS A HEART OF BERLIN'S POLITICAL STATUS-- AND NEED TO NEGOTIATE WITH GDR IS LIKELY TO COME UP FAR MORE FREQUENTLY FOR BERLIN THAN NEED FOR LAENDER IN WEST GERMANY TO NEGOTIATE WITH FOREIGN STATES.

7. AS TO WATER CONSERVATION TALKS THEMSELVES, SENAT HAS TOLD US THEY HOPED THAT SPECIFIC LOCAL SUBJECTS COULD BE DEALT WITH BETWEEN SENAT AND GDR, BUT THAT IT WOULD STILL BE POSSIBLE FOR FRG TO INCLUDE WEST BERLIN WITHIN GENERAL ENVIRNMENT AGREEMENT IT WAS SCHEDULED TO NEGOTIATE WITH GDR UNDER BASIC TREATY. OF COURSE, GDR HAS ITS OWN VIEWS ON THIS, AND IT IS PROBABLY THAT GDR WOULD USE ANY SENAT-GDR AGREEMENT AS AGRUEMENT AGAINST INCLUSION OF WEST

BERLIN IN FRG-GDR AGREEMENT. FOR THIS REASON WE HAD WELCOMED INITIAL RIEBSCHLAEGER REPLY TO GDR INITIATIVE (REF C) AS INDICATION THAT SENAT WAS PREPARED TO SIT TIGHT ON THIS SUBJECT UNTIL FRG HAD CRACK AT ENVIRONMENT NEGOTIATIONS AND THAT FRG (WHICH STRENGTHENED THE REPLY) WAS PREPARED TO ENCOURAGE TOUGH SENAT LINE. PRESENT SENAT WILLINGNESS TO BEGIN TALKS PROBABLY REFLECTS LESS A NEW SENSE OF URGENCY ABOUT RESULTS TO BE GAINED THAN ITS LATEST READING OF BONN'S POLITICAL WISHES.

8. WHILE GDR IS MOTIVATED TO LARGE EXTENT BY POLITICAL CONSIDERATIONS, THERE IS SOME SUBSTANTIVE GDR INTEREST IN SUBJECT. THERE ARE INSTANCES OF POLLUTANTS ORIGINATING IN WEST BERLIN FLOWING INTO GDR. HOWEVER, PROBLEMS ARE LONG-STANDING AND HARDLY OF CRISIS PROPORTIONS THAT WOULD JUSTIFY SENSE OF URGENCY GDR HAS SOUGHT TO IMPART TO ITS APPROACHES TO SENAT. (WE NOTE THAT GDR HAS NOT YET SUBMITTED SPECIFIC AGENDA.)

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9. TOPICS THAT RIEBSCHLAEGER DRAFT WOULD PROPOSE FOR AGENDA (REF D) INCLUDE, SENAT HAS TOLD US, NUMBER OF ITEMS THAT WOULD CONFER CONSIDERABLE BENEFITS UPON WEST BERLIN. MOST PROMINENT IN THIS CATEGORY IS SENAT PROPOSAL FOR DREDGING TELTOW CANAL AND RELATED PROJECT AT GRIEBNITZ, NECESSARY PREREQUISITES FOR REOPENING WESTERN END OF TELTOW CANAL, WHICH IS GENERALLY REGARDED AS WEST BERLIN'S HIGHEST PRIORITY WATERWAYS IMPROVEMENT. (OPENING OF TELTOW WOULD, FOR EXAMPLE, PERMIT MUCH MORE DIRECT SHIPMENT OF OIL FOR USE BY LICHTERFELDE POWER PLANT NOW BEGINNING OPERATIONS.) GDR HAS UP TO NOW BEEN RELUCTANT TO ENGAGE IN MEANINGFUL

TELTOW CANAL NEGOTIATIONS (WHICH, AS ADDRESSEES WILL RECALL, ALLIES CONSIDERED IN 1971 AND 1972 COULD BE CONDUCTED BY SENAT PURSUANT TO A --REF E, BUT SENAT IS HOPEFUL THAT GDR WILL CHANGE ITS POSITION AFTER AGREEMENT IS REACHED FOR EXPANDED SPANDAU LOCK. NEGOTIATIONS ON LATTER PROJECT ARE WELL ADVANCE, AS REPORTED SEPTEL, GDR IS NOW TAKING POSITION IN TALKS WITH SENAT ON RESCUE AGREEMENT THAT IT MAY BE POSSIBLE TO DISCUSS TELTOW CANAL QUESTIONS ONCE SENAT IS FORTHCOMING IN REGARD TO GDR CONCERNS ON VARIOUS OTHER MATTERS, PERHAPS INCLUDING WATER POLLUTION.
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10. TEGLER FLIESS AND BUSCHGRABEN PROJECTS INVOLVE POLLUTION OF WEST BERLIN WATERS THAT ORIGINATE IN GDR. WE EXPECT TO OBTAIN SHORTLY FURTHER SPECIFIC INFORMATION ON THIS PROPOSED PROJECT AS WELL AS THAT AT FORDHAFEN. WE WOULD JUDGE THAT, WERE PROPOSED RIEBSCHLAEGER REPLY TO BE SENT IN NEXT FEW DAYS, SENAT AND GDR WOULD STILL FACE DIFFICULT PROCEDURAL WRANGLE OVER AGENDA BEFORE THEY COULD BEGIN SUBSTANTIVE NEGOTIATIONS. IT IS UNLIKELY, THEREFORE, THAT THERE IS URGENT NEED FOR US TO AUTHORIZE SENAT TO ENTER INTO NEGOTIATIONS. ON OTHER HAND, IT WOULD APPEAR THAT BOTH SENAT AND FRG HAVE MADE JUDGEMENT THAT AT LEAST SOME ASPECTS OF OVER-ALL BERLIN ENVIRONMENTAL QUESTIONS SHOULD BE NEGOTIATED BY SENAT. GIVEN THIS POLITICAL FACT, BEST WE CAN DO AT PRESENT TIME, IT SEEMS TO US, IS TO DEVELOP GENERAL GUIDELINES FOR SENAT-GDR NEGOTIATIONS IN FORM OF AN AUTHORIZING BK/L THAT WOULD ASSIST US IN MAINTAINING HANDLE ON THE NEGOTIATIONS AND LIMITING THEM TO APPROPRIATE AREAS.

11. WE ARE REPORTING IN SEPTEL THAT GDR LAST WEEK REJECTED SENAT PROPOSAL THAT RESCUE AGREEMENT INCLUDE REFERENCE TOIMPROVEMENT OF COMMUNICATIONS UNDER QA. CHANCELLERY HEAD HERZ HAS TOLD US, HOWEVER, THAT GDR NEGOTIATOR MITDANK MADE INFORMAL SUGGESTION THAT IT MIGHT BE POSSIBLE TO CITE "PROTOKOLLVERMERK" SUBSCRIBED TO BY SENAT AND GDR WHEN VISITS ARRANGEMENT WAS SIGNED THAT "BOTH SIDES AGREE TO IMPROVE COMMUNICATION. THE NEGOTIATIONS NECESSARY FOR THIS WILL BE CARRIED OUT BETWEEN THE RESPONSIBLE AUTHORITIES OF THE GOVERNMENT OF THE GDR AND OF THE SENAT." WHILE HERZ HAS REACTED NEGATIVELY TO THIS SUGGESTION, IT OCCURS TO US THAT IT MAY ULTIMATELY PROVIDE COMPROMISE FORMULATION. SENAT AND ALLIES COULD RELATED PROTOCOL BACK TO COMMUNICATION PROVISIONS OF QA UNDER WHICH VISITS ARRANGEMENT WAS CONCLUDED, WHILE GDR COULD REGARD NEW AGREEMENT AS FREEE FROM EXPLICIT DEPENDENCE UPON QA.BORG

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